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10/526,311

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Melchor Daumal Castellon

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EXAMINER

KELLY, CATHERINE A

ART UNIT

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3634

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/526,311 | Applicant(s) DAUMAL CASTELLON, MELCHOR | |
| | Examiner CATHERINE A. KELLY | Art Unit 3634 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,11, and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the track being secured to a lock of the motor vehicle must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the single point of contact between the first slider and the frame must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 lines 9-12 include the limitations "a third distance from the track of the second assembly to a portion of the frame defined where the first assembly is provided in the frame; the track of the second assembly being spaced from the frame by the third distance." These limitations are not supported by the original specification filed 2/3/2005 which only describes the third distance as "from an end of the track which is secured to the door to the points of contact of the slider in the track" on page 3 lines 34-35, page 4 line 1, and page 9 lines 28-31. The original drawings of 2/3/2005 provide no further support as the original drawings are too blacked out and blurry to distinguish where the third distance X_1 is.

Claims 5, 7, 11, and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in

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the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the first slider has a single point of contact.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 5-8, 11, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 line 2 includes the limitation “a first guide and slider assembly provided in a frame.” Is the frame the guide as shown in the figure? If so, how is it provided in itself? Claim 1 line 3 includes the limitation “a second guide and slider assembly provided in a track.” Are both the guide and slider in the track? Is the track the guide? If so, how is it in itself? Claim 1 line 10 includes the limitation “the track of the second assembly.” As the track was previously defined in line 3 as part of the window lift assembly, this language is confusing.

Claim 5 line 4, claim 7 line 4, claim 11 line 3, and claim 13 line 2 include the limitation “a single point of contact.” How does the slider have only a single point of contact in the frame? Is the slider curved somehow?

Claim 6 line 4 and claim 8 line 6 include the limitation “without the possibility of rotation.” How is this possible? This limitation also appears to be contradicted by the limitation claim 5 line 4 allowing rotation. The invention cannot both allow rotation and eliminate the possibility of rotation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4608779 to Maeda in view of US patent 5159781 to Glossop and US PG Pub 2002/0095870. As best understood, the window lift assembly of claim 1 is shown in the '779 reference in figures 1-13 where a first guide and slider assembly shown with upper slider 16 provided in a frame 13 of a door 10 of the vehicle and a second guide and slider assembly shown with lower slider 16 provided in a track of the window lift assembly 14b, both assemblies having sliders 16 fixed to a window pane 12 as shown in figure 3, the structure of said window lift assembly defines a first distance between a first top point of contact and a second bottom point of contact of the slider of the second assembly with the track measured on a line parallel to said track as can be

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seen in figure 2 from top to bottom of lower slider 16; a second distance from an upper edge of the window pane to a fastening point of the slider of said first assembly on the pane as can be seen in figure 2 from upper edge of pane 12 to upper slider 16; a third distance from the track of the second assembly to a portion of the frame defined where the first assembly is provided in the frame as can be seen in figure 2 from where the middle of lower slider 16 is in track 14b horizontally to where the middle of upper slider 16 is in track 14b; a first height from a lower edge of the door of the vehicle to a belt line of the door as seen in figure 2; and a second height defined by the height of the window of the vehicle as can be seen in figure 2, characterized in that said first distance has a value that is less than a difference between the first height and the second height, said second distance being less than a difference between the second height and the second distance.

However, the '779 reference does not show the separation between frame and track forming the third distance or the track secured to the lock.

Separated tracks are shown in the '781 reference in figures 1-7 where window pane 12 has first upper slider 42 in upper track 34 and second lower slider 44 in lower track 36 which are separate from each other as shown in figure 2 such that the third distance is from the track 36 of the second assembly to a portion of the frame defined where the first assembly track 34 is provided.

The track secured to the lock is taught in the '870 reference in paragraph [0013] lines 1-5.

One of ordinary skill in the art would be motivated to provide the window lifter of the '779 reference with the separate tracks of the '781 reference and the rail secured to the lock of the '870 reference because two tracks were known in the art to provide guiding allowing for additional movements, i.e. closing flush, without jamming and because the rail secures to the lock allows for easier connection of the window lifter to the door as taught in the '870 reference paragraph [0018] lines 3-4.

Regarding claim 2, the fourth distance is shown in figure 2 between the bottom and middle of the lower slider 16.

Regarding claims 3 and 5-7, as best understood, the single point of contact is shown in the '781 reference in figure 3 where the first slider 42 is elliptically shaped such that there is only one point of contact with upper track 34. One of ordinary skill in the art would be motivated to provide the window lift assembly of the '779 reference, having the separate tracks of the '781 reference and the rail secured to the lock of the '870 reference, with the slider having a single point of contact of the '781 reference because the single point of contact helps prevent jamming. However, the '781 reference is silent as to the distance between the upper track and lower track. As a distance between the two guides/tracks was clearly known at the time of invention, the actual distance of between 100-150mm or less than 150mm could be found by one of ordinary skill in the art without undue experimentation.

Claims 8, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4608779 to Maeda in view of US patent 5159781 to Glossop. The

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window lifter of claim 8 is shown in the '779 reference in figures 1-13 where a first guide and slider assembly provided in an upper portion 13 of the frame of the door, including a first slider 16 (upper), the first slider being fitted in track 14b such that the first slider 16 is guided without the possibility of rotation; a track 14b provided in a lower portion of the frame of the door 10; and a second guide and slider assembly provided in said track, including a second slider 16 (lower); wherein both of said first and second sliders 16 are fixed to the window pane 12.

However, the '779 reference shows only one track.

Two separated tracks are shown in the '781 reference in figures 1-7 where window pane 12 has upper slider 42 in upper track 34 and lower slider 44 in lower track 36 which are offset from each other as shown in figure 2.

One of ordinary skill in the art would be motivated to provide the window lifter of the '779 reference with the two tracks of the '781 reference because two tracks were known in the art to provide guiding allowing for additional movements, e.g. closing flush, without jamming.

Regarding claim 11, the first slider 42 has a single point of contact with track 34 allowing for rotation of second slider 44 as shown via the curved end 38 of second track 36 in the '781 reference.

Regarding claim 13, the single point of contact is shown in the '781 reference in figure 3 where the first slider 42 is elliptically shaped such that there is only one point of contact with upper track 34. One of ordinary skill in the art would be motivated to provide the window lift assembly of the '779 reference, having the separate tracks of the

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'781 reference, with the slider having a single point of contact of the '781 reference because the single point of contact helps prevent jamming. .

Response to Arguments

Applicant's arguments filed 10/20/2010 have been fully considered but they are not persuasive. In regards to applicant's arguments directed to the tracks of the '781 reference, Examiner notes that claim 8 requires "offset" tracks in line 10. As such, Examiner maintains that upper track 34 and lower track 36 are horizontally offset from one another as shown in figure 2. Therefore, while the tracks made be one integral piece, they are still separated, or offset, from one another and thus read over the limitation.

Applicant's arguments with respect to claims 1-3, and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE A. KELLY whose telephone number is (571)270-3660. The examiner can normally be reached on Monday through Friday 9am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. K./
Examiner, Art Unit 3634

cak

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634